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C O N F I D E N T I A L SECTION 01 OF 02 BOGOTA 002650

SIPDIS

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TAGS: PHUM PINR PREL CO

SUBJECT: UNHCHR FRUHLING DISCUSSES HUMAN RIGHTS REPORT WITH
DIPLOMATIC COMMUNITY

REF: A. BOGOTA 2564

B. BOGOTA 1958

Classified By: Ambassador William B. Wood Reasons 1.4 (b) and (d)

Summary

11. (C) On March 18, Michael Fruhling, Director of the Colombia Office of the United Nations High Commissioner for Human Rights (UNHCHR) briefed the diplomatic community on his recently released report on the human rights situation in Colombia. Fruhling gave a brief overview of the report and recommendations, and also discussed the UN's input (at GOC request) into the demobilization law currently before the Colombian Congress. Post believes that the report will be cited by some members of the EU to toughen the chair statement on Colombia at the Commission on Human Rights (CHR) next month. End summary.

Discussion of UNHCHR Report

12. (U) On March 18, Michael Fruhling, Director of the Colombia Office of the United Nations High Commissioner for Human Rights (UNHCHR), met with the diplomatic community to discuss the UNHCHR's 2004 human rights report, publicly released on March 11. As reported in Ref A, the report describes the human rights situation as "critical" due to continued allegations of extrajudicial killings, torture, and arbitrary detentions committed by state security forces. Violations of international humanitarian law, particularly by the FARC and paramilitaries, also continued in 2004. On the recommendations, Fruhling noted the results for 2004 were "mixed and varied," and that the High Commissioner had issued another 27 recommendations for 2005.

13. (C) In response to a question from the Argentine representative on differences between the 2003 and 2004 reports, Fruhling spoke primarily of the need for the development of a system of public statistics that adequately covers human rights violations and breaches of international humanitarian law, including violations by the security forces (refs A and B). Regarding the demobilization law, Fruhling stressed that the High Commissioner continues to call for a law that guarantees the rights to truth, justice and reparation for victims, and ensures there will be no impunity for perpetrators of crimes against humanity and war crimes.

14. (C) Embassy Polcouns raised some concerns with the report, which appeared to move the UN away from a neutral observer. Among other things, he questioned whether it was germane to include a discussion of the re-election debate in the text; the erroneous implication was that if the GOC had spent less time on this issue, the human rights situation would be better. He questioned why there was only a brief reference to the new accusatory system, a fundamental and positive reform in the judicial system. He noted that the report's description of the problems created in the application of international humanitarian law by the GOC refusing to use the term "internal armed conflict" had been publicly disputed by the International Committee for the Red Cross (ICRC). Similarly, the report's reference to "high levels of torture" committed by the security forces (only one example of mistreatment provided in the text) had also been disputed albeit privately by the ICRC. The UNHCHR was talking to NGOs about incidents of torture and the ICRC was talking to actual victims. As well, the report's characterization of the status of the paramilitaries in the country was subject to interpretation and should not have been presented as fact. Fruhling took note of the comments but insisted that his office takes no political stance and merely reports what it sees happening in the country.

Legal Framework for Peace Process

15. (C) Fruhling also discussed the ongoing debate regarding a legal framework for the peace process. He noted that an adequate framework must offer certain incentives and judicial benefits for demobilized combatants and would not result in

impunity for those who have committed grave violations of human rights. The framework, which would be used for all future peace processes in Colombia, must also guarantee truth, justice and reparations for victims. Fruhling added that the UN has provided technical advice to the GOC on the drafting of the latest versions of the law, and some of their suggestions have been included. He also noted that Colombia has the chance to design and create a legal framework that could be used in future related situations.

16. (C) The British Ambassador said that civil society needs to participate in the creation and adoption of this law, as occurred in Northern Ireland where a referendum was held. He added that Colombian citizens are the only ones who can decide what the "price for peace" is, and this decision must then be accepted by the international community. Fruhling agreed, adding that the UN office is available to provide assistance and advice to GOC on international law and standards. The Peruvian Ambassador raised the issue of individual confessions, noting they had had been used successfully in Peru. Fruhling responded that the UN was not against individual confessions, but the law needed to have a collective context. On extradition, Fruhling said this was one of the positive effects of globalization, and it was important the extradition existed. On the International Criminal Court (ICC), he noted the ICC's jurisdiction is only complementary to local justice, it does not replace it.

Comment

17. (C) The report will be used as ammunition by certain members of the G-24, especially Canada, France and Sweden, to toughen up the soon-to-be-drafted chair's statement on Colombia at the Commission on Human Rights. Bogota-based representatives from these countries have told us they are coming under increasing pressure by their NGO communities to "remedy" in Geneva the "weak" and "pro-GOC" Cartagena Declaration released February 3 at the international donors conference for Colombia.

WOOD